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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/038,964

12/31/2001

Zhen Zhen

270/237

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12/20/2004

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EXAMINER

VARGOT, MATHIEU D

ART UNIT

PAPER NUMBER

1732

DATE MAILED: 12/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/038,964

Applicant(s)

ZHEN ET AL.

Examiner

Mathieu D. Vargot

Art Unit

1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-17, 19-24, 26-47 and 51-58 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-17, 19-24, 26-47 and 51-58 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date, _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____. |

1.The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8, 10-17, 21-24, 28-36, 39-45 and 51-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koike et al generally for reasons of record noting the following.

As pointed out in the first office action, the applied reference discloses the basic claimed invention. Applicant has amended certain claims to recite that the dopant concentration is less than 20% in all layers and added new claims directed to a 5 layer fiber wherein the dopant is present at 17% or less in all layers, and further argued that claims 28-47 are patentable over the reference in reciting "at least five" spinning materials. These aspects are submitted as well within the skill level of the art and would not impart patentability to the instant method. Certainly, the exact concentration of dopant in any or all the layers would have been an obvious parameter dependent on exact refractive index distribution desired. The same would be true of the number of spinning materials extruded to make the fiber. Simply because a prior art reference does not explicitly teach more than three layers for an optical fiber does not necessarily mean that the claiming of more than three would be patentable. It is submitted that the aspects argued by applicant and also set forth in new claims 51-56 would have been obvious modifications by one of ordinary skill in the art to the method of Koike et al dependent on the exact RI gradient desired for the optical fiber.

2. Claims 19, 20, 26, 27, 37, 38, 46, 47, 57 and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koike et al in view of Schneider et al (see col. 3, lines 22-35) for reasons of record as set forth at paragraph 2 of the first office action and comments set forth in paragraph 1, supra.

3. Applicant's arguments filed September 28, 2004 have been fully considered but they are not persuasive. Applicant's comments are not persuasive basically for reasons already set forth. It is generally well within the skill level of the art to pick and choose suitable dopant concentrations and number of layers in an extruded RI gradient optical fiber, such basically dependent on the refractive index profile desired for the fiber. It would not constitute an invention to increase the number of layers of such a fiber, nor would exact dopant concentrations in each starting layer patentably define over the prior art. One of ordinary skill in the art would have recognized that these aspects would have been readily determined dependent on the exact concentration gradient desired in the optical fiber.

4. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of


the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mathieu D. Vargot whose telephone number is 571 272-1211. The examiner can normally be reached on Mon-Fri from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni, can be reached on 571 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Vargot
December 12, 2004


Mathieu D. Vargot
Primary Examiner
Art Unit 1732

12/12/04